

Page 1 of 2

RESPONDENT NAME: SAM CICALO

ORDER TYPE:		
<input checked="" type="checkbox"/> X 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> X AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 488 County Road 3737, Wise County</p> <p>TYPE OF OPERATION: Dry abrasive cleaning sandblasting operation.</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> X Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: One complaint was received, alleging that the Respondent was operating a sandblasting operation from his residence. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: The complainant has not indicated that he wishes to protest this action or speak at agenda. No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired June 22, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p> TCEQ Attorney: Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p> TCEQ Enforcement Coordinator: Mr. Sam Short, Air Enforcement Section, MC 219, (512) 239-5363</p> <p> TCEQ Regional Contact: Ms. Alyssa Taylor, DFW Regional Office, MC R-4, (817) 588-5828</p> <p> Respondent: Mr. Sam Cicalo, P.O. Box 1264, Springtown, Texas 76082-1264</p> <p> Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: May 13, 2008</p> <p>Date of Investigation Relating to this Case: May 14, 2008</p> <p>Date of NOE Relating to this Case: August 28, 2008</p> <p>Background Facts: The EDPRP was filed on February 5, 2009. The agreed order was signed on March 31, 2009.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>AIR: Failed to obtain authorization prior to conducting a dry abrasive cleaning sandblasting operation [30 TEX. ADMIN. CODE § 106.452(2)(D) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$1,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$100/\$900</p> <p>The Respondent paid \$100 of the administrative penalty. The remaining amount of \$900 shall be payable in nine (9) monthly payments of \$100 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action Taken:</p> <p>On October 22, 2008, the Respondent utilized the expertise of the Small Business & Local Government Assistance Program and submitted a Form PI-7 for the sandblasting activities at the Site.</p> <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Respond completely and adequately to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing. 2. Within 30 days, submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

DATES	Assigned	2-Sep-2008	Screening	9-Sep-2008	EPA Due	
	PCW	28-Oct-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Sam Cicalo
Reg. Ent. Ref. No.	RN105566525
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36494	No. of Violations	1
Docket No.	2008-1450-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	J. Craig Fleming
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$1,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0.0% Enhancement Subtotals 2, 3, & 7 **\$0**

Notes No enhancement is recommended due to Average Performer classification.

Culpability No 0.0% Enhancement Subtotal 4 **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 **\$0**

Economic Benefit 0.0% Enhancement* Subtotal 6 **\$0**

Total EB Amounts \$19
Approx. Cost of Compliance \$500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal **\$1,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$1,000**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$1,000**

DEFERRAL 0.0% Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$1,000**

Screening Date 9-Sep-2008

Docket No. 2008-1450-AIR-E

PCW

Respondent Sam Cicalo

Policy Revision 2 (September 2002)

Case ID No. 36494

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN105566525

Media [Statute] Air

Enf. Coordinator J. Craig Fleming

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No enhancement is recommended due to Average Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 9-Sep-2008		Docket No. 2008-1450-AIR-E		PCW																	
Respondent Sam Cicalo		<small>Policy Revision 2 (September 2002)</small>																			
Case ID No. 36494		<small>PCW Revision June 12, 2008</small>																			
Reg. Ent. Reference No. RN105566525																					
Media [Statute] Air																					
Enf. Coordinator J. Craig Fleming																					
Violation Number		<div style="border: 1px solid black; padding: 2px;">1</div>																			
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 106.452(2)(D) and Tex. Health & Safety Code § 382.085(b)</div>																			
Violation Description		<div style="border: 1px solid black; padding: 2px;">Failed to obtain authorization prior to conducting a dry abrasive sandblasting cleaning operation. Specifically, the Respondent failed to submit a PI-7 form prior to commencing operations.</div>																			
Base Penalty					<div style="border: 1px solid black; padding: 2px;">\$10,000</div>																
>> Environmental, Property and Human Health Matrix																					
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>					Harm			Release	Major	Moderate	Minor	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px;">0%</div>
		Harm																			
	Release	Major	Moderate	Minor																	
Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																		
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>> Programmatic Matrix																					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td style="text-align: center;">x</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>					Falsification	Major	Moderate	Minor		<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px;">10%</div>						
	Falsification	Major	Moderate	Minor																	
	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																	
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">100% of the rule requirement was not met.</div>																				
Adjustment					<div style="border: 1px solid black; padding: 2px;">\$9,000</div>																
					<div style="border: 1px solid black; padding: 2px;">\$1,000</div>																
Violation Events																					
Number of Violation Events		<div style="border: 1px solid black; padding: 2px;">1</div>	Number of violation days																		
		<div style="border: 1px solid black; padding: 2px;">40</div>																			
<small>mark only one with an x</small>	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Violation Base Penalty <div style="border: 1px solid black; padding: 2px;">\$1,000</div>																		
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	quarterly	x																			
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	single event	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
One quarterly event is recommended from the investigation end date of July 31, 2008 to the screening date of September 9, 2008																					
Good Faith Efforts to Comply		<div style="border: 1px solid black; padding: 2px;">0.0%</div> Reduction		<div style="border: 1px solid black; padding: 2px;">\$0</div>																	
		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> </table>			Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Ordinary	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	N/A	x	(mark with x)						
	Before NOV	NOV to EDPRP/Settlement Offer																			
Extraordinary	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
Ordinary	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
N/A	x	(mark with x)																			
Notes		<div style="border: 1px solid black; padding: 5px;">The Respondent does not meet the good faith criteria for this violation.</div>																			
Violation Subtotal					<div style="border: 1px solid black; padding: 2px;">\$1,000</div>																
Economic Benefit (EB) for this violation			Statutory Limit Test																		
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px;">\$19</div>	Violation Final Penalty Total		<div style="border: 1px solid black; padding: 2px;">\$1,000</div>																
This violation Final Assessed Penalty (adjusted for limits)					<div style="border: 1px solid black; padding: 2px;">\$1,000</div>																

Economic Benefit Worksheet

Respondent Sam Cicalo
Case ID No. 36494
Reg. Ent. Reference No. RN105566525
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$500	31-Jul-2008	1-May-2009	0.75	\$19	n/a	\$19
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The approximate cost to obtain authorization by submitting a PI-7 form. The Date Required is the end date of the investigation. The Final Date is the projected date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$500

TOTAL

\$19

Compliance History

Customer/Respondent/Owner-Operator: CN602752933 CICALO, SAM Classification: AVERAGE Rating: 2.00
 Regulated Entity: RN105566525 SAM CICALO PROPERTY Classification: AVERAGE BY Site Rating: 3.01
 ID Number(s):
 Location: 488 COUNTY ROAD 3737, WISE COUNTY, TEXAS Rating Date: 9/1/2008 Repeat Violator: NO
 TCEQ Region: REGION 04 - DFW METROPLEX
 Date Compliance History Prepared: September 09, 2008
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: September 09, 2003 to September 09, 2008
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: J. Craig Fleming Phone: (512) 239-5806

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SAM CICALO
RN105566525

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-1450-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Sam Cicalo ("Mr. Cicalo") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Cicalo appear before the Commission and together stipulate that:

1. Mr. Cicalo owns and operates a dry abrasive cleaning sandblasting operation at 488 County Road 3737, Wise County, Texas (the "Site").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Commission and Mr. Cicalo agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Cicalo is subject to the Commission's jurisdiction.
4. Mr. Cicalo received notice of the violation on or about September 2, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Cicalo of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of one thousand dollars (\$1,000.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Cicalo paid one hundred dollars (\$100.00) of the administrative penalty. The remaining amount of nine hundred dollars (\$900.00) of the administrative penalty shall be payable in nine monthly payments of one hundred dollars (\$100.00) each, pursuant to 30 TEX. ADMIN.

CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Mr. Cicalo fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Mr. Cicalo's failure to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Cicalo to timely and satisfactorily comply with all of the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Cicalo agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on October 22, 2008, Mr. Cicalo utilized the expertise of the Small Business & Local Government Assistance Program and submitted a Form PI-7 for the sandblasting activities at the Site.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Cicalo has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

During an investigation conducted on May 14, 2008, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Mr. Cicalo violated 30 TEX. ADMIN. CODE § 106.452(2)(D) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to obtain authorization prior to conducting a dry abrasive cleaning sandblasting operation. Specifically, Mr. Cicalo failed to submit a PI-7 form prior to commencing operations.

III. DENIALS

Mr. Cicalo generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Cicalo pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Cicalo's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Sam Cicalo, Docket No. 2008-1450 AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Mr. Cicalo shall undertake the following technical requirements:
 - a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and
 - b. Within 30 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of

finest and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Cicalo. Mr. Cicalo is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order:
4. If Mr. Cicalo fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Cicalo's failure to comply is not a violation of this Agreed Order. Mr. Cicalo shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Cicalo shall notify the Executive Director within seven days after Mr. Cicalo becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Cicalo shall be made in writing to the Executive Director. Extensions are not effective until Mr. Cicalo receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Cicalo in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Cicalo, or three days after the date on which the Commission mails notice of the Order to Mr. Cicalo, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Sam Cicalo
Docket No. 2008-1450-AIR-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

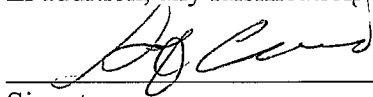
6/17/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Mr. Cicalo's compliance history;
- Greater scrutiny of any permit applications submitted by Mr. Cicalo;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Mr. Cicalo;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Mr. Cicalo; and
- TCEQ seeking other relief as authorized by law.
-

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

MARCH 31 09
Date

SAM J CICALO
Name (Printed or typed)
Authorized representative of
Sam Cicalo

PAID TCEQ
Title